



MEMORANDUM OF AGREEMENT 2011-2014 AFTRA NATIONAL CODE OF FAIR PRACTICE FOR NETWORK TELEVISION BROADCASTING

This Memorandum of Agreement reflects the complete understanding reached between the parties. As soon as practicable, this Memorandum of Agreement will be reduced to formal contract language. The language in the Memorandum of Agreement is not contract language, except where the context clearly indicates otherwise.

The provisions of the Memorandum of Agreement represent modifications to the current Agreement between the parties, *i.e.*, the National Code of Fair Practice for Network Television Broadcasting. Except as modified herein, the terms of the current Agreement between these parties shall remain the same, subject to conforming changes.

Unless stated otherwise, all changes are effective upon notice of ratification.

1. Term

November 16, 2011 through November 15, 2014.

2. Wages and fees

A. **General.** Increase the program fees in the following Paragraphs by 2% effective the first payroll period after notice of ratification from AFTRA; by 2% effective November 18, 2012*; and by 2% effective November 17, 2013*:

- 2.A.(2)(a)
- 2.B.(1),(2) and (3)
- 2.C.(1)
- 3.A. and B.
- 4.A.(1),(2) and (3)
- 4.B.(1) and (2)
- 5.A.(1),(3),(7), (14) and (16)
- 5.B.(1)a., (2)a.,(3)a. and (3)b.
- 6.B. and E.
- 7.(A),(B),(C) and (D)
- 8.(D)
- 9.A.

B. **Serials** - Increase the rates in Paragraphs 2.A.(2)(b)(i) and 3.C(1) by 2% effective November 18, 2012 and by 2% effective November 17, 2013.

C. **Promos** – Increase the Off-Camera rate in Paragraph 10.A(1) to \$240 and the Value Added Promo rate to \$410 upon notice of ratification.

*Dates inserted for Contract drafting purposes as increases are effective on the date of the first payroll period following November 16, 2012 and November 16, 2013, in acknowledgement of the fact that the Companies have different payroll periods.

D. **Background Actors** – Increase the rates under Paragraphs 8.(A), (B) and (C) by 2% effective November 18, 2012.

E. **Rest between days (Paragraph 16.A)** – increase the per hour invasion of rest period payment from \$15 to \$20 effective the date of the first wage increase hereunder.

F. Except as provided herein, other rates, fees or allowances are not increased.

3. Health & Retirement

Increase the existing Health and Retirement contribution rate by one percent (1%), from 15.5% to 16.5%, effective the first payroll period after notice of ratification from AFTRA. The bargaining parties hereby delegate to the Board of Trustees of the Health and Retirement Funds the authority to establish, acting in a settlor capacity and as delegates of the bargaining parties, the allocation of such contributions as between the Health Fund and the Retirement Fund.

4. First Run Syndication Residuals

Modify Paragraph 73 to provide that for first run syndicated programs, residual payments shall be governed by the following formula for all programs, including new episodes of existing programs, produced after the date of notice of ratification from AFTRA [date to be inserted in Contract draft]:

Run	Residual payment
Second	40%
Third	30%
Fourth	25%
Fifth	25%
Sixth	25%
Seventh-Tenth	15%
Eleventh-Twelfth	10%
Each subsequent	5%

5. Announcers and Promotional Announcements

- a. Delete the following language from Paragraph 10.A(1): "Any other use shall be paid for pursuant to the provisions of the applicable AFTRA Code or Contract."
- b. Add a new Paragraph 10(A)(5) to the Code which provides as follows: "Producer may, at its option elect, upon payment of three times the promo fee have an announcer record up to five promos, for an episode of a program being distributed in first run syndication."
- c. Add a new Paragraph 10(H)(4) to the Code which provides as follows: "For promotional announcements produced for "off-network" syndication, Producer may, at its option elect, instead of utilizing the provisions set forth in subparagraphs (1) and (2), to make an initial payment to the Performer, at the time of the original engagement, of two times the promo fee provided in Paragraph 10A (10G for singers) for up to five promos per episode. An additional payment of \$35 per year, for all promos created for a given episode shall cover each year's use during the episode's license period. For second and subsequent sales, the applicable \$35 fee shall be \$25 per year per episode payable at the time of the second or subsequent sale."
- d. The Producer shall have, at its option, the ability to hire off-camera announcers for sporting events for exhibition on cable television. If the Producer so elects, it will pay such off-camera announcer a minimum fee equivalent to the Sportscaster per event fee under Paragraph 7 of the Code. Such fee shall cover all off-camera announcing services related to that sporting event that are provided during a single recording session, and the use of such material, including any free-standing announcements promoting the cable exhibition of the event. This understanding shall not constitute a grant of jurisdiction over made for cable announcements, including promotional announcements.

- e. The parties shall agree to add a "transfer of rights agreement" applicable to promotional announcements, which shall be incorporated as an Exhibit to the Code.
- f. Because of changes made in the terms and conditions for promotional announcements in the 2011-2014 Network TV Code, the parties have agreed to promptly schedule a meeting as soon as practicable in New York and Los Angeles to discuss a system for AFTRA to obtain the information necessary for enforcement of the Agreement.

6. Exclusivity (Paragraph 54)

Increase the \$8,000 exclusivity threshold under Paragraph 54 to \$8,500 effective upon notice of ratification from AFTRA for all contracts entered into on or after that date.

7. Dancers

Amend Paragraph 5.A.(12) to provide that the compensation payable to a dancer for a hazardous activity shall be \$100 per day, with a minimum of \$125 per program.

8. Singers

Modify Paragraph 6.B.(2)(b) as follows:

(b) Off-Camera Singers - Session:

Off-camera singers' fees include a session of up to four (4) hours on any one (1) day for all programs, except on any program where the off-camera singers work with the cast, in which case the length of the program on the air may be added to the allowable hours. Furthermore, on a variety program Special where the singers work with the cast, work on a second day is subject to a ~~three (3)~~ **four (4)** hour minimum call payable at the applicable rehearsal rate. Work on a second day without the cast (or on a third day on a variety program Special where the singers work with or without the cast) shall require the payment of a new session fee for a session of up to four (4) hours.

If a session goes beyond the included hours, ~~overtime shall be paid at the rate of \$25.00 per hour~~ **shall be paid** for each additional hour of work up to and including the ~~eighth (8th)~~ **sixth (6th)** hour worked on the day of the session, and ~~for each additional hour worked in excess of six (6) eight (8),~~ overtime shall be paid at the rate of \$37.50 per hour. **Overtime Hours in excess of six (6)** may be computed in quarter (¹/₄) hour segments. Paragraph 14 (Rehearsal Days) shall not apply to off-camera singers.

9. News Insert / Service Fees

- a. The parties agree to a letter agreement which shall provide as follows:

"During negotiations for the 2011-2014 AFTRA National Code of Fair Practice for Network Television ("Network Code"), AFTRA made proposals to modify the "News Inserts" and "News Service" provisions of the Network Code (Paragraphs 75 and 76).

After considerable discussion, the bargaining parties agreed that further discussion of these provisions would be more productive in the context of meetings in New York between AFTRA and ABC, CBS and NBC at which network news management could be present. Therefore, it was agreed that following the negotiations, upon thirty days' written notice by any of the parties, AFTRA and representatives of ABC, NBC, and CBS ("the Parties") would schedule meetings for the purpose of discussing potential changes to these provisions.

Notwithstanding the foregoing, nothing in this letter agreement should be understood to modify the "News Insert and News Service" sideletters of the 2010-2013 AFTRA/ABC Network Staff Newspersons Agreement or the 2008-2010 AFTRA/CBS Network Staff Newspersons Agreement (as extended), except to the extent that the Parties may agree to modify those sideletters as a result of any understanding reached as a result of the aforementioned meetings.

- b. News Insert and News Service fees shall be increased by 2% effective November 18, 2012; and by 2% effective November 17, 2013, subject to any contrary commitment in a Network News Agreement between AFTRA and a signatory Network.

10. Background Actors

Mutual withdrawal of Industry proposals No. 6(a), (b), (c) and (d) dated November 7, 2011 and AFTRA proposals No. 9(A), (B) and (C) dated November 7, 2011. AFTRA and the Industry reserve their positions with regard to Background Actors and the AICF.

11. Radio Simulcasts

Revise Paragraph 104 to provide that Radio simulcasts shall be included under Exhibit D of the Code, pursuant to which the Producer shall pay the performers on a dramatic program simulcast on radio 6%, and on all other programs 3.6%, (1.5% where the off-camera announcer is the only covered performer) of Distributor's gross receipts in lieu of any other fees. This provision will not be utilized in connection with the simulcast of sporting events.

12. Meal Periods (Paragraph 23)

Modify Paragraph 23 to provide that Performers (including background actors) on all program types shall have no more than 6 hours between first call and first meal, provided that a performer (including background performers) may be provided with a non-deductible meal appropriate to the time of day of fifteen (15) minutes in duration within two (2) hours of the performer's call time, during which performer will be freed of all activity, provided that for Background Actors such non-deductible meal is given for the purpose of synchronizing the performers' meal time with the crew meal time. If the performer is given a non-deductible meal, a notation indicating the start and finish time of that meal shall be made on the production report. The first deductible meal period shall commence within six (6) hours of the end of such non-deductible meal.

13. Stand-Ins (Paragraph 36)

- a. Increase the minimum call to five (5) hours on Award Programs in excess of one (1) hour. Increase the minimum call on prime time Variety Programs Sixty (60) minutes or longer to five (5) hours.
- b. Producer shall pay Stand-Ins covered under either Paragraph 36B.(1) or (2) overtime at one and a half times the regular hourly rate [\$24.00 under 36B.(1) and 1/8 the then current daily rate under 36B.(2)] for all work in excess of 8 hours, excluding meals, per day.
- c. Industry clarifications and confirmation on Stand-Ins made in these negotiations are withdrawn with reservation of position.

14. Non Discrimination / Affirmative Action

- a. Amend Paragraph 97 to provide that the term "gender identity" shall be added wherever "sexual orientation" is listed.

- b. Amend Paragraph 97A.(10) by adding the following underlined sentence to the existing provision:

Each signatory Producer agrees to comply with the substantive provision of Title I of the Americans with Disabilities Act of 1990, including applicable conforming amendments found within the ADA Amendments Act of 2008, with respect to performers employed under this Code, notwithstanding the fact that the ADA by its own terms may not otherwise apply to any such Producer.

- c. The Producers remain committed to diverse, inclusive casting. Submissions for non-descript roles will be accepted for all performers, regardless of age, sex, ethnicity, or disability, race, color, national origin, sexual orientation or gender identity. During the negotiations for the 2011 AFTRA Network TV Code, AFTRA raised a concern that some casting notices may describe characters as "ethnically ambiguous" which may not allow performers of all ethnicities to be considered for non-descript roles. Accordingly, the Producers will advise their casting departments that the preferred terminology is that casting for non-descript roles are "open to all ethnicities" or words to similar effect.

15. Programs Made For New Media (Sideletter 29)

Add the following provisions to Sideletter 29, paragraphs B and D:

5. As soon practicable for each production made for New Media, Producer shall furnish a notice containing the following information to a designated representative of the Union:

- the name, address and telephone number of the production company;
- the working title of the production; and
- the principal location at which photography is scheduled to occur.

Both the Union and the Producer shall designate a representative for the other party to contact in the event of questions concerning the foregoing.

6. Overwithholding

1. The "Part-Year Employment Method" of withholding, as currently set forth in Section 31.3402(h)(4)-1(c) of the Internal Revenue Code Regulations, or any applicable successor regulations, shall be utilized for any performer upon request of the performer and the form of declaration for each such use shall be attached to the performer's employment contract.
2. The withholding of taxes on a weekly basis rather than on a daily basis for day performers as currently set forth in Internal Revenue Code Regulation Section 31.3402(c)-(1)(d)(2), or any applicable successor regulations, shall be utilized on the request of the day performer and the form of declaration for such use shall be attached to employment contracts of day performers.
3. The obligation of the Producer to permit the election of the foregoing alternative withholding formulae shall be effective during such time as the Internal Revenue Code Regulations permit such alternatives.

7. Payroll and Unemployment Insurance Information

Producer shall, upon request of the performer, supply the following information, in writing, to the performer: (1) the name, address and state identification number of the employer of record; and (2) the state in which unemployment insurance is filed."

8. Nudity

No performer shall be expected to appear nude, except with the performer's consent after the performer has had an opportunity to read the script.

16. Re-Use In New Media (Sideletter 30)

- a. Paragraph 3.D.(3) (Reuse of excerpts on Consumer Pay Platforms): Modify as follows: "If an excerpt from a television program is used on a "consumer pay" platform, ~~whether promotional or not,~~ the Producer shall pay 3.6% of "Distributor's gross" as defined in Paragraph 5 of this Sideletter for such use, **except when the excerpt is used for one of the promotional purposes set forth in Paragraphs 3.B.(1) through (4) above and meets the length limitations in Paragraph 3.A. above.** This formula shall apply to a "hybrid" use where the consumer pays for the photography or sound track and advertising revenues are also derived by the Producer from such use. Such revenues shall be incorporated in "Distributor's gross".
- b. Paragraph 5.B (Agreements and Data): Provide that inspections shall be on a semi-annual basis.
- c. Paragraph 5.C (recordkeeping and Reporting): Provide that AFTRA and each Producer shall discuss and agree upon a method of making available to AFTRA the information described therein.

17. Definition Of A Covered Performer In New Media (Sideletter 47)

Amend the definition of a "covered performer" in Sideletter 47 by adding a new last sentence as follows:

- "for original serial dramatic programs made for new media, has been employed as a principal performer pursuant to the terms of an AFTRA or SAG contract and is employed as a principal performer on the New Media production."

18. Modify Paragraph 90 of the Code to provide as follows:

90. PRODUCER BOUND BY OTHER AFTRA CODES

To be bound by this Code, the Producer must sign a Letter of Adherence to the Code. The Producer may elect to agree to be bound by the terms of other Codes, as provided in the Letter of Adherence, only if it expressly agrees to do so in writing and not by default.

19. Add the following new Sideletter to the Code:

Re: Holding Areas

During negotiations for the 2011-2014 Network TV Code, AFTRA expressed concern over circumstances in which Performers engaged by a Producer who are waiting to rehearse or perform are in holding areas which are inadequately protected in AFTRA's

view from the cold, heat or inclement weather. The parties agreed that should AFTRA believe that such circumstances are occurring or will occur, it may request a meeting with the Producer to discuss its concerns, which the Producer agrees to consider in good faith.

Drafting Corrections

1. Remove reference to "UPN" under Paragraph 73(B)(4) and sideletter 39 and update reference to "The CW".
2. Revise Paragraph 4.A.(5)(a)(i) of Sideletter 30 (reuse of made for new media productions) as follows in order to reflect correct rates: "As an example, suppose that a five (5) minute non-dramatic Derivative New Media Production is exhibited for the first time in network prime time. The applicable residual is the program fee used for a non-dramatic program five (5) minutes and under in length exhibited in syndication (~~\$221~~ **\$229** as of March 8, 2008). That figure will be multiplied by 75%, the percentage applicable to a second run on a network, for a total residual payment of ~~\$166~~ **\$172**."
3. Sideletters 21 and 22 to be deleted as obsolete. All other sideletters continue.

By _____ Date _____
Marc Sandman
American Broadcasting Companies, Inc.
an indirect wholly-owned subsidiary of ABC, Inc.

By _____ Date _____
Andrew Herzig
NBC, Inc.

By _____ Date _____
Harry Isaacs
CBS Broadcasting Inc.

By _____ Date _____
Dean Ferris
20th Century FOX and FOX Sports Productions, Inc.

By _____ Date _____
Jean Bonini
CPT Holdings, Inc.

ACCEPTED AND AGREED TO:

AMERICAN FEDERATION OF
TELEVISION AND RADIO ARTISTS

By _____ Date _____
Kim Roberts Hedgpeth
National Executive Director